SOCIAL PLANNING
COUNCIL
OF
METROPOLITAN
TORONTO

185 Bloor Street East
Toronto / Ontario / Canada
M4W 3J3
Tel. (416) 961-9831

RESPONSE TO
THE CHILDREN'S ACT:
A CONSULTATION PAPER

July 1983

A participant in
the United Way

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The Children's Act Committee is a sub-committee fo the Family and Community Services Program Group of the Social Planning Council.

Committee Chairperson	Ann Kirkland
Members	Barbara Chisholm Martha Friendly Lori Hale Elspeth Heyworth Mavis Himes Ilze Kalnins Joanne Leatch
Staff	Barbara Wiktorowicz with assistance from Robert Doyle Senior Program Director
Production	Madeline Allicock Reinhold Johannes

EXECUTIVE SUMMARY

The Social Planning Council of Metropolitan Toronto is concerned about the well-being of children and families in this province. Therefore, we are pleased to have the opportunity to respond to The Children's Act: A Consultation Paper

In our response we address the premises and the conceptual framework underlying the proposed legislation. We take issue with the overriding emphasis which the Consultation Paper places on family autonomy. We believe this emphasis is based on an erroneous view of contemporary families and a lack of recognition of the collective responsibility which society has for the welfare of our children. In particular we are afraid this emphasis will result in a rejection by government of the responsibility it has to preserve and promote the physical and mental health of our children.

We propose an alternative approach to children's services in a discussion of five themes which should provide a conceptual framework for children's services legislation. It concerns us that these areas are not explicitly addressed by the Consultation Paper.

The five themes are:

i) A reconceptualization of the family - The structure of families has changed over the past century. Families today cannot be expected to be self-sufficient or to provide all the emotional and material nurturance which was once expected by our society. However, they still remain the primary vehicle for delivery of services to children.

ii) Entitlements of children - Children are entitled to be emotionally and materially dependent on adults and to be protected from harmful consequences of their own decisions as well as from the harmful actions of adults. Every child, regardless of sex, ethnicity, or socio-economic background must have equal access to a core group of

supportive and protective human services which promote their physical, emotional, intellectual and social development.

iii) Parental rights and responsibilities - With the support of their community and society parents should provide an environment where the child can grow up whole and without fear. Parental rights over their children are not absolute. The first principle must be the safety and well-being of the child.

iv) Role of the state and public policy - Society should take on more responsibility for providing a system of support for families and their members. A complementary and interdependent relationship exists between the state and the family. Once it is acknowledged that responsibility for children is shared, the issue of who is most appropriate to care for children becomes one of finding the best balance for each family and child at any particular time rather than a question of whether it should be only the family or only the state.

v) Children's services - Children's services must be viewed as part of a larger network of human services which form a continuum of supports for individuals and families throughout their life cycle. Services should address not only the immediate problems of the child, but also the long-term support of the family and community in discharging their responsibilities for the rearing of children.

We give some examples of the implications our approach would have on legislation in the following areas:

Principles of Children's Services Legislation

The major differences in the principles proposed by the Social Planning Council in contrast to those presented in the Consultation Paper are:

- protection of the child has been given precedence over the principle of family autonomy.
- the child's and the family's right to services is declared and the responsibility of the government to ensure the availability of a wide range of services is recognized.
- the service system is viewed as not only having the function of assisting families when they have problems but as serving to support families in meeting a wide range of needs.

The Service System

Flexibility is only one important aspect of a service system. Other essential characteristics are the availability of a wide range of services, accessibility to services, accountability to the public and effectiveness. The goal of a flexible service system must be responsiveness to the needs of children and families and not to political considerations.

Children in Need of Protection

If a situation comes down to protection of children or protection of the rights of parents, we believe it is better to err on the side of protecting the child. We support making the definition of a child in need of protection more precise and explicit, but we are concerned that the definition proposed is too narrow to allow involuntary intervention (not necessarily removal of a child, but a requirement to accept support services or counselling) to occur before the child is in substantial danger of serious harm. Irreparable harm to the child may have already occurred, and allowing a situation to deteriorate to such a serious extent may make it all the more difficult to bring about an improved parent-child relationship.

Recommendations

I. We recommend that new proposals for legislation be drafted which would be based on the following:

- an explicit conceptual framework which addresses a view of the family, the rights and responsibilities of children and parents, and the role of government and human services.

- development of a data base about families in Ontario.
- precedence of the right of children to protection over the right of families to non-intervention.
- the right of access by children and families to a wide range of humans services.
- a commitment by the Provincial Government to ensuring the availability of a broad range of services for families and children in each community.
- recognition of the supportive and preventive role which human services have to play in addition to their treatment role.
- improved linkages between the Children's Act and other aspects of government policy as they pertain to the needs of children and families.

II. In view of our misgivings about the Consultation Paper and the consultation process we recommend that the consultation process be reopened. An All-Party Committee of the legislature should be established to implement the consultation process, to require further research, and to conduct public education programs and public hearings around issues pertaining to the protection of children and provision of services to them and their families. This committee should produce new proposals for legislation which take into account the recommendations made by the Social Planning Council and other groups and individuals. There should be ample time provided for community response to the new proposals before legislation is drafted.

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INTRODUCTION

The Social Planning Council of Metropolitan Toronto is concerned about the well-being of children and families in this province. Therefore, we are pleased to have the opportunity to respond to the recent document of the Ministry of Community and Social Services, The Children's Act: A Consultation Paper, whose purpose is to clarify and consolidate present legislation governing children's services.

We begin with our general concerns about the consultation process and the context of the proposed legislation. Then, in response to The Children's Act: A Consultation Paper, we take issue with some of the premises which underlie this document. Because of our disagreement with these premises we have chosen not to respond to the details of the Paper. We outline an alternative approach to children's services based on a discussion of five general themes: a reconceptualization of the family, the entitlements of children, parental rights and responsibilities, the role of the state and public policy, and the children's services system. Assumptions about these areas, whether implicit or explicit, form the conceptual framework for children's services legislation. We are concerned that the Consultation Paper does not address these themes directly. Following the outline of our alternative approach we give some examples of the implications it would have for legislation by examining a number of points raised in the Consultation Paper - i) the principles which should guide legislation and its interpretation, ii) the goals of de-institutionalization and "least restrictive environment", iii) the essential qualities of a service system, and iv) questions about intervention in the case of a child requiring protection.

Consultation Process

There have been several weaknesses in the consultation process around The Children's Act: A Consultation Paper which have limited the debate in the larger community - a debate which should precede the drafting of any major piece of legislation. The deadline given for responding has been too short to allow community groups, and those less familiar with the current legislation, to review the complex and numerous issues involved and to develop a thoughtful response to be shared with government. In addition, difficulties for the community have been exacerbated by delays

at the Ministry in making copies of the Paper available. We do not feel that enough has been done by the Ministry to encourage broad based participation by client groups, grassroots organizations or ethnic groups in the debate around future children's legislation. More active outreach should have been undertaken to inform these groups and the general public of the changes being suggested and to ensure that their views were also taken into consideration. In conjunction with preparing our own response, we have consulted with community groups (see attached Summary) and have been involved in discussions with a broad range of service providers.

Comprehensive Planning

In terms of the broader context within which these proposals for legislation are set, we are disappointed that more comprehensive co-ordination, policy development and planning around the needs of children, both within the Ministry of Community and Social Services and among other government ministries appears to be limited. Because unemployment, low wages and inadequate social assistance rates are very stressful for families, not only children's services legislation must be reviewed in order to address the provision of adequate care for children. Other Ministry of Community and Social Services policies, such as the income support policy, as well as the policies of other Ministries have both direct and indirect impact on children's lives. It has been acknowledged that the need for and use of child welfare services is often a function of poverty. Communication and coordination among ministries should be improved in an attempt to develop consistent policies. If this Ministry intends to pursue a policy of de-institutionalization, as indicated in the Paper, the policies of a number of other Ministries will have to be altered in order to support rather than contradict this effort.

PREMISES OF THE CONSULTATION PAPER

Family Autonomy

We object to the overriding emphasis which the Consultation Paper places on family autonomy and the implication which seems to be drawn that a family's integrity depends on its remaining autonomous. Not only is the emphasis on family autonomy inappropriate in the light of the data that exists on the state of contemporary families and the social stresses

they are facing. It also reveals a lack of understanding of the legitimate role which the community, government, and the human services have to play in the care of children. The focus on family autonomy results in a bias towards the stance - the less state intervention in family life the better - and towards insufficient recognition of the responsibility of the state to the child. This stance could have serious immediate and long-term harmful consequences for the well-being of our children.

Traditionally, in the field of children's services, it was assumed that most families should and could maintain sole responsibility for rasising their children and that family integrity implied autonomy. Both the role of environmental factors and the inability of families to maintain control over them were less clearly understood. A family crisis was not viewed as the end of a process. Services which could prevent family situations from escalating to crisis proportions had been relatively unexplored.

Today, however, there is a growing body of evidence in these areas which needs to be considered when planning how to best serve children. There is also growing recognition and public support for the view that acknowledgement of children's rights includes provision of ways of meeting their needs and interests and that ordinarily, the best way to do this will be by adequately supporting their families.

Procedural Focus

In another vein, we are concerned that the legal and procedural focus of the Consultation Paper is viewed as the solution to the problems of the children's services system. We accept that there must be checks and balances when the rights of individuals are in question. Also we accept that agencies serving the public must be accountable. A legal approach, however, brings its own problems. These include an increase in the time required for decisions to be made, and a heightening of an adversial stance which may encourage divisions among family members, professionals and agencies. Legal procedures may not be the best problem-solving processes in situations of family stress. They cannot take into account some of the complex human factors with which social service and mental health professionals deal. Approaches falling in between the two (in some situations mediation would be appropriate) should be sought and more thought should be given to how the two systems can work together with greater understanding.

Despite the misgivings we have about the legal focus of the Consultation Paper, it is encouraging that the Ministry's concern for the legal rights of

children and parents has resulted in specification of some issues such as the age at which children should be expected to give their consent to services and a clarification of the expectations placed on parents in the disposition of a child protection case.

AN ALTERNATIVE APPROACH TO SERVICES FOR CHILDREN

We feel there are serious shortcomings in the Consultation Paper's conceptualization of issues which should provide a framework for the reorganization of the children's services system in Ontario. It is unfortunate that an explicit conceptual framework concerning the family, the state, and the children's services system is not included.

Therefore, we have decided to enunciate briefly an approach which we feel should guide the provision of children's services today. We believe our approach or conceptual framework would lead to different legislation and its concommitant service system from that proposed by the Paper. In our approach as in the Consultation Paper, the family is the focus. However, we differ from the Paper in our conception of the family, the responsibility of the state to families and children, and the role of the human services system. Following is our position on five underlying themes which must be clearly addressed before new legislation is drafted:

Reconceptualization of the Family

The structure of families has changed from the time when Canada was first established. Recent studies indicate that a growing proportion of our families have lone parents or have two parents who are both employed. The increasing rate of marriage breakup and the mobility of our population have meant that there is less support available from extended family members.

Furthermore, as institutionalization of handicapped persons is less common now and as our lifespans increase new forces are being brought to bear on families. We do not mean to imply with these points that the family is "falling apart" or to negate the necessity of respecting the integrity of families. However, with their changing structures and social stresses it is evident that families today cannot be expected to be self-sufficient or to provide all the emotional and material nurturance which was once expected by our society. Many of the most critical problems which face families, such as unemployment, inflation, poor housing, or pollution,

are beyond individual control and reflect the external conditions under which families live.

Despite the changing forms of the family, it is still the family that is the primary support group for children and, along with various informal networks, provides most of the care children require. Therefore, the family must be acknowledged as the primary vehicle for delivery of services to children. Moreover, the problems of children cannot be separated from the problems of those who are primarily responsible for them. Therefore, it is generally most effective to help children by helping their families and communities.

Entitlements of Children

Children have come to be recognized as persons in their own right rather than as possessions of their parents. As children they are entitled to be emotionally and materially dependent on adults and to be protected from the harmful consequences of their own decisions as well as from the harmful actions of adults. Because of their vulnerability, our society must make provisions to ensure that the interests of children are addressed in the political process. Ideally, their emotional and material needs should be met in the context of a family whatever its form. However, it must be recognized that parents are not solely responsible for the welfare of their children. It is in the interests of our society to bring up healthy and happy children who have had an opportunity to develop their talents to the fullest extent. Every child, therefore, regardless of sex, ethnicity, or socio-economic background must have equal access to a core group of supportive and protective human services which promote their physical, emotional, intellectual and social development.

Parental Rights and Responsibilities

Parents have the right to make decisions on behalf of or in the best interests of their child. They should be expected to respect their children as persons. With the support of their community and society they should provide an environment where the child can grow up whole and without fear. Thus, adequate social security provisions and environmental protections, and an accessible range of community services must exist to support their child-rearing capabilities. Parental rights over their children, however, are not absolute. The first principle must be the safety and well-being of the child.

Role of the State and Public Policy

Most often it has been assumed that families should maintain the sole responsibility for rearing their children. However, with the growing recognition of the critical impact of external conditions on children and an understanding that families have limited abilities to influence these conditions, it is slowly being accepted that society should take on more responsibility for providing a system of support for families and their members. Our governments are currently involved in many aspects of family life, for example through health and safety regulations (controlling food, toys), tax policies, education policies (compulsory school attendance), and health policies (compulsory immunization). A complementary and interdependent relationship exists between the state and the family. Once it is acknowledged that responsibility for children is shared, the issue of who is most appropriate to care for children becomes one of finding the best balance for each family and child at any particular time rather than a question of whether it should be only the family or only the state. Government must recognize that a concern for the support of children and family life must extend into every area of provincial jurisdiction, not only within the social development ministries but also around the social purposes and consequence of economic, manpower, fiscal, agricultural, and physical development policies.

Children's Services System

Children's services must be viewed as part of a larger network of human services which form a continuum of supports for individuals and families throughout their life cycle. Because of the recognition of the impact on children of their family and environment, the emphasis of services to children should be on families and ways of assisting the family in its role as primary caregiver. Services should address not only the immediate problems of the child, but also the long-term support of the family and community in discharging their responsibilities for the rearing of children. Individual services should be part of a comprehensive system on which families could draw when needed without being made to feel incompetent or in danger of losing their autonomy or integrity. All families are likely to have some need for human services at various times. The human service system should be viewed as a part of the life of the family, rather than as external to it or competing with it.

A basic range of services should be available in each community which must include supportive and preventive programs as well as programs to assist and treat families and children at times of crisis. Variety and flexibility in service delivery should be stressed to enable families to exert more control over how they raise their children. The diversity of child-rearing patterns practised by families of different cultural, religious and socio-economic backgrounds must be respected. Services should strive to utilize and complement the family's own child-caring capabilities to the greatest extent possible.

Even if appropriate services are available, it must be remembered that a child's access to them depends on his/her parents. Thus, attention should be given to education of parents about the services available and their potential benefits. Measures must also be available for providing children with services necessary to their emotional or physical well-being even if their parents may not approve of them.

IMPLICATIONS OF ALTERNATIVE APPROACH

In the following sections we outline the implications which our position in the five areas above would have on some issues raised in the Consultation Paper. We have organized our comments according to three chapters of the Paper - Chapter 1 - Declaration of principles, Chapter 2 - The flexible service system, and Chapter 4 - Children in need of protection.

Declaration of Principles

Value Premises of Government Policy - The principles presented in the Consultation Paper are specifically addressed to children's services. We propose a set of higher level principles or value premises which should guide overall government policy and be incorporated into specific areas of legislation. These should be:

- Universal Entitlement - Programs and benefits should be universally available to children and their families simply because of their status as children and not limited on the basis of other criteria.
- Equity - Services, opportunities and resources should be provided to families on an equitable basis without discrimination as to income, race, religion, or cultural background.
- Redistribution - Services, opportunities, and resources should be consciously redistributed to families whose needs are greater, who have borne undue costs of society's progress or who have been victimized as a result of continuing inequalities.

- Protection - Government must accept responsibility for protecting the weaker, more vulnerable members of our society, such as children.

Principles of Children's Services Legislation - We propose the following principles to guide the establishment and interpretation of legislation governing services to children. They are contrasted to those presented in the Consultation Paper:

MINISTRY CONSULTATION PAPER	SOCIAL PLANNING COUNCIL PROPOSED PRINCIPLES	COMMENTS
1) Each child and each family has unique problems and responses that may change from time to time. A primary factor influencing the offer of help must be the problems and responses themselves, and not the structures and requirements of service agencies and institutions.	Each child and each family has unique needs and responses that may change from time to time. A primary factor influencing the offer of help must be the needs and responses themselves. Help is used most effectively when it is seen as a response to the child's, the family's and the community's perception of its needs.	The term "needs", as opposed to "problems", leads to a broader conceptualization of the supports or help necessary for families. It implies that services should be available to assist any family to function optimally rather than only being available once problems have developed.
4) Help is used most efficiently when it is seen as a response to the person's or family's own perception of its needs and should be provided on a voluntary basis, wherever possible. In cases of conflict between children and parents, or between parents, due regard should be given to the concerns of each family member.		
2) Services to children should support, enhance, and supplement the family, wherever possible, rather than compete with the family by providing alternative care and supervision.	To ensure that the fundamental interests and rights of children and parents are respected, services to children must support, enhance and supplement the family.	Services do not "compete" with families.

MINISTRY CONSULTATION PAPER	SOCIAL PLANNING COUNCIL PROPOSED PRINCIPLES	COMMENTS
3) The children's services system should be designed to meet a child's need for a continuous, stable environment and to promote the child's opportunity to enjoy a parent-child relationship and to be a wanted and needed member of a family.	The children's services system should: i) meet the necessity for a continuous, stable environment for the child ii) promote the child's opportunity to enjoy a parent-child relationship which accepts the child as a wanted and needed member of a family and allows the child to grow up whole and without fear.	Though it is very important for children to be wanted and needed members of their families they also require a great deal of emotional and material caring.
5) If either voluntary or involuntary intervention in the life of a child or family is necessary, the least restrictive or drastic alternative appropriate in the circumstances should be chosen; children should be removed from their parents only as a last resort even when parents initiate the request.		Our concerns about this principle are discussed in the following sections on "Least restrictive alternative" and "Children in need of protection."
6) Any process of involuntary intervention involving a child or family should be based on a strong presumption of family autonomy and family integrity.	Any process of involuntary intervention involving a child or family must be based on a presumption of family dignity, autonomy and integrity. However, the first principle must always be the safety and well-being of the child now and in the future. The dignity, autonomy and integrity of the child must also be respected.	

MINISTRY CONSULTATION PAPER	SOCIAL PLANNING COUNCIL PROPOSED PRINCIPLES	COMMENTS
7) All attempts to help children and families deal with the problems must take into account developmental differences among children.	All attempts to help children and families deal with their problems must take into account developmental and individual differences among children.	
8) Services to children and families must be provided in a culturally appropriate and sensitive manner, based on a recognition of cultural uniqueness and regional differences.	Services to children and families must be provided in a culturally appropriate and sensitive manner, based on cultural uniqueness and regional differences. In addition, special recognition should be given to Natives and Francophones because of their unique constitutional status.	
9) Parents and children should be given the opportunity to be heard when decisions affecting their interests are being made and when they have questions or complaints regarding the provision of service. For serious decisions, advocates should be available to assist parents and children in making themselves heard.	We accept this principle as stated by the Ministry.	

MINISTRY CONSULTATION PAPER	SOCIAL PLANNING COUNCIL PROPOSED PRINCIPLES	COMMENTS
10) If the fundamental interests and rights of children or parents will be affected by a decision, clear criteria and procedural safeguards are needed to define the discretion of service providers and critical decision-makers.	We accept this principle as stated by the Ministry.	
11) Periodic review is necessary to monitor the provision of service to children and families.		This statement does not belong as a principle.
	A primary consideration of the court proceedings, reviews, hearings and other procedural safeguards which may exist must be the needs of the child involved. This would entail time limits which take into account the time frame of the child, and an adaptation or suspension of formal court procedures such as those which govern the presentation of evidence.	Legislatic measures which may be taken to ensure greater respect of parental rights could result in a disregard of the needs of the child involved.
	Each community has the right to a range of services for children and families (from home support to treatment and residential care) and children and families have the right of access to these services. The provincial government and the local community are responsible to ensure the availability of this range of services.	Along with a greater assurance of the right to be free from involuntary intervention, the family should be given the positive right to human services.

The major differences in the principles which we have proposed are:

- protection of the child has been given precedence over the principle of family autonomy.
- the child's and the family's right to services is declared and the responsibility of the government in ensuring the availability of a wide range of services is recognized.
- the service system is viewed as not only having the function of assisting families when they have problems but as serving to support families in meeting a wide range of needs.

Least Restrictive Alternative - In the Consultation Paper, the Ministry recommends "that the least restrictive alternative principle be defined as an approach to service delivery that involves a preferential ordering of where and how services should be provided to children and families." (p.16) Further, the Paper suggests that in selecting the least restrictive type and method of service a number of variables should be considered - place, location, access to the community, normalized living, size, length of stay, supervision and control, and voluntariness - with each variable being evaluated according to a scale of restrictiveness. For example, in terms of place," a child's own home is preferable to a foster home and both homes are preferred to all residences." (p. 16)

In theory we can support this as a way of setting priorities as to where and how services should be provided to children. However, this principle becomes meaningless without adequate funding to develop a range of less restrictive community support services. We are also concerned that as a result of the emphasis on this principle, the primary criterion of service may become its restrictiveness, where it should be its appropriateness and effectiveness in meeting the child's and family's needs. There is a danger that this principle will be interpreted as the less intervention the better, or the cheaper the better. Any assessment of what is the most appropriate service should encompass the least restrictive factor but not be ruled by it. A pattern of failure could be established by providing an inappropriately less restrictive alternative.

De-institutionalization - The Consultation Paper gives the impression that a shift of resources from residential to community services is happening when in fact it is not. The issue is not just one of shifting funds but of putting more funds into the development of community services, in effect maintaining two parallel systems over a transitional period of time. We support the move to less institutional and smaller residential treatment and care settings. However, as there will always be human beings requiring the level of care provided in residential facilities, they too must be

adequately funded in order to maintain the best possible standards of service.

Experience in other human service sectors where de-institutionalization has taken place has illustrated that at the same time as the funding of institutional services was decreased, community supports were not developed further to assist those people who were now expected to remain in the community. This has lead to personal tragedy in the lives of individuals not to mention hardship for families and communities. We are concerned that under the admirable banners of "de-institutionalization" and "least restrictive environment" the quality of institutional services will be compromised and the autonomous family will be left to carry the full weight of supporting those children who had previously been in residential care. Sufficientt community alternatives will not emerge unless appropriate levels of funding are made available by the province. In addition, long term planning processes must be implemented to guide the growth of such services. This Act should do more to ensure that community alternatives will be there when the institutions are closed. The planning of community services is the shared responsibility of the province, municipality and the voluntary sector.

The Service System

We support a redesigning of the service system to make it more flexible and responsive. However, flexibility is only one important aspect of a service system. Other essential characteristics are the availability of a range of services, accessibility to services, accountability to the public, and effectiveness. The goal of a flexible service system must be responsiveness to the needs of children and families and not to political considerations. We fear that removing all funding formulae from the Act and making funding a matter of ministerial discretion could jeopardize future support for even current levels of service. It also undermines the establishment of minimum standards of service provision.

We are disappointed in the limited reorganization being suggested. Present funding policy is assumed to be adequate, thus not addressing the need for uniform cost-sharing across a range of services. No assurance is given that preventive, support and other non-mandatory services will be funded.

The Act should describe, in broad terms, a range of services which should be available in all communities, from supports to families in their homes (e.g. homemakers or childcare workers) to counselling, education,

parent relief programs, daycare, parent/child centres, child protection services, foster and group homes and therapy and treatment services. Consideration should be given to making such a core of services mandatory. However, whether or not they are, the Provincial Government should take a stronger role in promoting their development and should provide consistent funding. Within such a generally defined spectrum of services, the residents of a local community, through Children's Services Committees should identify more specifically their own needs and develop the services best able to meet them.

Children in Need of Protection

The statement that "children should be removed from their parents only as a last resort even when parents initiate the request" (p. 4) concerns us. The assumption underlying this statement seems to be that separation of a child from his parents is always the worst alternative. We do not believe this to be the case. In situations where children might be suffering or are at risk of suffering physical or emotional abuse or neglect separation may be the best of some bad alternatives. We are aware of the argument made in the Paper concerning the damage done to children by separating them from their parents, however, damage done by brief separation in and of itself can be undone. Damage from abuse in that time period may be less amenable to reversal. If a situation comes down to protection of children or protection of the rights of parents, we believe it is better to err on the side of protecting the child. As this is a very serious decision, there must be a check in family court where the decision to remove a child must be justified.

We respect the integrity of parents who recognize that a child should be taken into care. When parents reach the point of requesting such support we must take them at their word: they are telling us their child is at risk. For the sake of protecting the child, the parent(s)' decision must be respected and the child removed at least temporarily. Such a crisis service should be part of the basic protection which our society affords our children. Often when parents request that their children be taken into care, they have been pushed to this extreme measure because they lack any support in their parenting role and are in crisis. They are blamed for being bad parents when it is really our society which has not made available a sufficient scope of supportive services to families who are experiencing financial, emotional, and other difficulties. Children are the primary

victims of this societal neglect.

We believe better community support services would help to prevent a family situation from escalating to crisis proportions where children are in jeopardy. If the thrust of the Act will be to remove children from their parents' homes less often then this must be balanced by much better and more extensive support services, particularly to families who have been identified to be "at risk". Without the development of extensive supports for these families the increased emphasis on family autonomy will result in more harmed children.

We support making the definition of a child in need of protection more precise and explicit, but we are concerned that the definition proposed is too narrow to allow involuntary intervention (not necessarily removal of a child, but a requirement to accept support services or counselling) to occur before the child is in substantial danger of serious harm. Irreparable harm to the child may have already occurred, and allowing a situation to deteriorate to such a serious extent may make it all the more difficult to bring about an improved parent-child relationship. We realize that the technology of psychology, psychiatry and social work is not refined to the point of making accurate predictions of human behaviour. Yet there has been some knowledge and skill gained in these fields in recent years. It does not seem fair to suggest that because there are problems, it is better to avoid the issue of intervening before a child has been seriously emotionally harmed. Because the interests and rights of children and their parents are so inextricably linked a purely legal approach to the question of protection of children is insufficient to fully address all the issues involved.

CONCLUSIONS AND RECOMMENDATIONS

In summary, the Social Planning Council has chosen to address the underlying premises found in the document, The Children's Act: A Consultation Paper rather than the details of the proposals. We believe the emphasis placed on family autonomy in the Paper is based on an erroneous view of contemporary families and that the welfare of children is a collective responsibility. Though we recognize and endorse the concepts of family integrity and autonomy and the fundamental right of adults to self-determination, we nevertheless, support the right and responsibility of government (as agent of the community) to intervene with appropriate checks and balances

to preserve and promote the physical and mental health of children. In addition we cannot accept the view of the human services which is suggested by the Paper as providing primarily last resort intervention. We have discussed five areas left undebated in the document: a reconceptualization of the family, the entitlements of children, parental rights and responsibilities, the role of the state and public policy and the children's services system. We have given some examples of how our approach would alter the proposed legislation. We believe that if the legislation as proposed is enacted our children will not receive the emotional and material care they need.

We recommend that new proposals for legislation be drafted which would be based on the following:

- an explicit conceptual framework which addresses a view of the family, the rights and responsibilities of children and parents, and the role of government and human services.
- development of a data base about families in Ontario.
- the precedence of the right of children to protection over the right of families to non-intervention.
- the right of access by children and families to a wide range of human services.
- a commitment by the Provincial Government to ensuring the availability of a broad range of services for families and children in each community.
- recognition of the supportive and preventive role which human services have to play in addition to their treatment role.
- improved linkages between the Children's Act and other aspects of government policy as they pertain to the needs of children and families.

In view of our misgivings about the Consultation Paper and the consultation process we recommend that the consultation process be reopened. An All-Party Committee of the legislature should be established to implement the consultation process, to require further research, and to conduct public education programs and public hearings around the issues pertaining to the protection of children and provision of services to them and their families. This committee should produce new proposals for legislation which take into account the recommendations of the Social Planning Council and of other groups and individuals. There should be ample time provided for community response to the new proposals before legislation is drafted.